

Regular Session, 2009

SENATE BILL NO. 82

BY SENATOR LAFLEUR

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

COMMERCIAL REGULATIONS. Allows historical and cultural re-enactors to purchase and store fifty pounds or less of commercially manufactured black powder for sporting, recreational or cultural purposes in antique firearms. (8/15/09)

AN ACT

To amend and reenact R.S. 40:1472.1, the introductory paragraph of 1472.2(7), 1472.6(A), 1472.7(A), and 1472.12(A), and to enact R.S. 40:1472.3(L), 1472.4(B)(2), and 1472.5(I), relative to public health and safety; to provide with respect to the regulation of explosives; to provide for the purchase and storage of commercially manufactured black powder; to provide for use in antique devices; to provide exceptions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1472.1, the introductory paragraph of 1472.2(7), 1472.6(A), 1472.7(A), and 1472.12(A) are hereby amended and reenacted and R.S. 40:1472.3(L), 1472.4(B)(2), and 1472.5(I) are hereby enacted to read as follows:

§1472.1. Construction of Part

A. The provisions of this Part are cumulative and shall not be construed as repealing or affecting any powers, duties, or authorities of the deputy secretary for public safety services of the Department of Public Safety and Corrections under any other law of this state; provided that with respect to the regulations of explosives as herein provided, in instances where the provisions of this Part may conflict with any

other such law, the provisions of this Part control.

B. The provisions of this Part and regulations promulgated by the deputy secretary do not apply to the lawful purchase by a non-licensee or non-permittee of commercially manufactured black powder in quantities not to exceed fifty pounds, if the black powder is intended to be used solely for sporting, recreational, or cultural purposes in antique firearms as defined in 18 U.S.C. 921(a)(16) or in antique devices as exempted from the term "destructive device" in 18 U.S.C. 921(a)(4).

§1472.2. Definitions

The following words used in this Part shall have the meanings respectively ascribed to them in this Section, including singular as follows:

* * *

(7) "Explosives" means any chemical compound, mixture, or device, the primary of common purpose of which is to function by explosion. The term includes but is not limited to dynamite and other high explosives, black powder in quantities in excess of ~~five~~ **fifty** pounds, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters. The term "explosives" further includes but is not limited to the following:

* * *

§1472.3. License; manufacturer, dealer-distributor, user, blaster, or handler of explosives

* * *

L. The provisions of this Part shall not apply to historical and cultural reenactors sixteen years of age or older for the acquisition and use of commercially manufactured black powder in quantities not to exceed fifty pounds who have completed the Louisiana State Parks Black Powder Certification.

§1472.4. Possession without license prohibited; exceptions

* * *

B. There are hereby made the following exceptions:

* * *

(2) Cultural and historical reenactors who have completed the Louisiana State Parks Black Powder Certification and possess commercially manufactured black powder in quantities of fifty pounds or less.

* * *

§1472.5. Maintenance of records; inspection; notice of sale or delivery

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I. All sales made to historical and cultural reenactors shall bear upon the sales invoice the roster or unit number of the individuals to be assigned by the dealer-distributor, for which a current roster must be maintained by the dealer-distributor and provided to the deputy secretary annually.

§1472.6. Sales authorized only to licensees

A. No manufacturer or dealer-distributor shall sell any explosive unless the purchaser thereof is duly licensed under the provisions of this Part and authorized to purchase same and the explosives are to be used by the purchaser for a purpose covered by the purchaser's license, **except that the provisions of this Paragraph do not apply to lawful purchases by a non-licensee or non-permittee of commercially manufactured black powder in quantities not to exceed fifty pounds, if the black powder is intended to be used solely for sporting, recreational or cultural purposes in antique firearms as defined in 18 U.S.C. 921(a)(16), or in antique devices as exempted from the term "destructive device" in 18 U.S.C. 921(a)(4).**

* * *

§1472.7. Reports of losses or thefts; illegal use or illegal possession

A. Any sheriff, police department, or peace officer of this state shall give immediate notice to the deputy secretary of any losses, thefts, illegal uses, or illegal possession of explosives within the purview of this Part, coming to his attention, and shall forward a copy of his final written report to the deputy secretary. Any

1 manufacturer, dealer-distributor, user, blaster, ~~or handler,~~ **or historical and cultural**
 2 **reenactor** who knows that explosives in his possession have been lost, stolen, or
 3 otherwise misappropriated shall immediately notify the nearest sheriff's office or
 4 police department and the deputy secretary of such fact. In addition, each
 5 manufacturer, dealer-distributor, and user shall physically inspect all magazines at
 6 least one time every seven days to ensure security of the explosives.

7 * * *

8 §1472.12. Unlawful storage of explosives

9 A. It is unlawful to store explosives within the boundaries of the state of
 10 Louisiana unless in a storage magazine properly licensed under R.S. 40:1472.3,
 11 **except that the storage of commercially manufactured black powder by**
 12 **historical and cultural reenactors of fifty pounds or less as authorized in this**
 13 **Part shall be stored in the factory-provided packages and boxes or in an**
 14 **approved day-box portable magazine.**

15 * * *

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Nancy Vicknair.

DIGEST

LaFleur (SB 82)

Present law provides that the provisions of Part 5-A of Title 40 are cumulative and not to be construed as repealing or affecting any powers, duties, or authorities of the deputy secretary for public safety services of the Department of Public Safety and Corrections under any other law of this state; provided that with respect to the regulations of explosives, in instances where the provisions of Part 5-A may conflict with any other such law, the provisions of this Part 5-A control.

Proposed law retains present law and provides that regulations promulgated by the deputy secretary for public safety services of the Department of Public Safety and Corrections do not apply to the lawful purchase by a non-licensee or non-permittee of commercially manufactured black powder in quantities not to exceed fifty pounds, if the black powder is intended to be used solely for sporting, recreational, or cultural purposes in "antique firearms" as defined in 18 U.S.C. 921(a)(16) or in antique devices as exempted from the term "destructive device" in 18 U.S.C. 921(a)(4).

Present law defines "explosives" as any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. The term includes but is not limited to dynamite and other high explosives, black powder in quantities in excess of five pounds, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters.

Proposed law retains present law and changes the quantity of black powder from in excess of five pounds to in excess of fifty pounds.

Proposed law provides that historical and cultural reenactors 16 years of age or older who acquire and use commercially manufactured black powder in quantities not exceeding fifty pounds and who have completed the Louisiana State Parks Black Powder Certification are exempt from the licensing requirement for manufacturers, dealer-distributors, users, blasters, or handlers.

Present law requires that no person can possess an explosive unless he is the holder of a valid license and possesses such explosives for the purpose set forth by the license.

Present law provides an exception for contract and private carriers operating in interstate and intrastate commerce.

Proposed law retains present law and includes an exception for cultural and historical reenactors who have completed the Louisiana State Parks Black Powder Certification and possess commercially manufactured black powder in quantities of 50 pounds or less.

Proposed law requires that all sales made to historical and cultural reenactors bear upon the sales invoice the roster or unit number of the individuals to be assigned by the dealer-distributor. Further requires that a current roster be maintained by the dealer-distributor and provided to the deputy secretary annually.

Present law prohibits any manufacturer or dealer-distributor from selling any explosive unless the purchaser is duly licensed and authorized to purchase such explosives and the explosives are used by the purchaser for a purpose covered by the purchaser's license.

Proposed law retains present law and specifies that the Paragraph would not apply to lawful purchases by a non-licensee or non-permittee of commercially manufactured black powder in quantities not to exceed 50 pounds, if the black powder is intended to be used solely for sporting, recreational or cultural purposes in antique firearms as defined in 18 U.S.C. 921(a)(16), or in antique devices as exempted from the term "destructive device" in 18 U.S.C. 921(a)(4).

Present law requires any sheriff, police department, or peace officer to give immediate notice to the deputy secretary of any losses, thefts, illegal uses, or illegal possession of explosives and requires him to forward a copy of his final written report to the deputy secretary.

Present law requires any manufacturer, dealer-distributor, user, blaster, or handler who knows that explosives in his possession have been lost, stolen, or otherwise misappropriated to immediately notify the nearest sheriff's office or police department and the deputy secretary of such fact. Proposed law retains present law and includes historical and cultural reenactors.

Present law provides that it is unlawful to store explosives within the boundaries of the state of Louisiana unless such explosives are in a storage magazine properly licensed.

Proposed law retains present law and requires the storage of commercially manufactured black powder by historical and cultural reenactors of 50 pounds or less to be stored in the factory-provided packages and boxes or in an approved day-box portable magazine.

Effective August 15, 2009.

(Amends R.S. 40:1472.1, 1472.2(7)(intro para), 1472.6(A), 1472.7(A), and 1472.12(A); adds R.S. 40:1472.3(L), 1472.4(B)(2), and 1472.5(I))